



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMha13121744
[REDACTED]

[REDACTED],
Complainant,

v.

MAMA ROSAS PIZZA EXPRESS,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission") pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred as alleged. 910 IAC 1-3-2(b).

On December 20, 2013, [REDACTED] ("Complainant") filed a Complaint with the Commission against Mama Romas Pizza Express ("Respondent") alleging discrimination on the basis of gender (pregnancy) and perceived disability in violation of the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) [REDACTED]

Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint. An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Respondent suspended Complainant's employment because of her pregnancy and/or perceived disability. In order to prevail, Complainant must show that: (1) she is a member of a protected class; (2) she suffered an adverse employment action; (3) she was meeting Respondent's legitimate business expectations; and (4) similarly-situated individuals who were not pregnant or not perceived to be disabled were treated more favorably under similar circumstances.

There is sufficient evidence to believe that Respondent perceived Complainant to have a disability as defined under the law; further, it is evident that Complainant is a member of a protected class by virtue of her pregnancy. Moreover, evidence shows that Complainant was subjected to an adverse employment action despite meeting Respondent's legitimate business expectations and that similarly-situated employees who were not pregnant or employees not perceived to be disabled were treated more favorably under similar circumstances.



By way of background, Respondent hired Complainant as a Pizza Maker on or about November 12, 2013. During the course of her employment, evidence suggests that Complainant met Respondent's legitimate business expectations; nonetheless, upon advising Respondent that she was pregnant, Respondent suspended her employment citing that she would not be able to lift 25 pounds. While Complainant provided medical documentation showing that she had no pregnancy related work restrictions, Respondent refused to permit her to work although it provided light duty work for a male employee who injured his foot outside of his employment.

Despite requests from the Commission, Respondent has refused to tender an answer regarding these allegations. Specifically, during the course of the investigation, an investigator made telephonic contact with Respondent's owner, Rajen Shaw, who indicated that he would provide an answer and supporting evidence; nonetheless, despite a subpoena sent to Respondent via certified mail on or about August 11, 2014, Respondent failed to respond to the allegations. As such and based upon the aforementioned, Complainant's allegations assert a claim of discrimination on the basis of pregnancy and perceived disability. Under the Pregnancy Discrimination Act, employers are obligated to treat pregnant employees the same as it would treat any other temporarily disabled employee. In this case, it is important to note that Complainant did not need pregnancy related accommodations; nonetheless, Respondent suspended based Complainant's employment because of perceived disability and/or her pregnancy. Thus, there is a nexus between Complainant's suspension and her pregnancy and/or her perceived disability and probable cause to believe that an unlawful discriminatory practice occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged in the above-referenced case. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may elect to have these claims hear in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election, or the Commission will hear this matter. Ind Code § 22-9-1-16, 910 IAC 1-3-6

December 3, 2014

Date

Akia A. Haynes

Akia A. Haynes, Esq.,
Deputy Director
Indiana Civil Rights Commission